

REMARKS/ARGUMENTS

Claims 14-26 are pending in this application. By this Amendment, Applicant AMENDS claim 23.

Applicant appreciates the allowance of claims 14-22, 25, and 26 by the Examiner.

Applicant also appreciates the Examiner extending the courtesy of the telephone interview on September 4, 2008. During the telephone interview, the Examiner alleged that the lock arm placing section 163 of Ishii et al. (U.S. 6,588,529) is arranged "substantially parallel" to the exhaust pipe 149 in a width direction of the motorcycle, although the exhaust pipe 149 is arranged far below the lock arm placing section 163 of Ishii et al. The Examiner indicated that further defining that the lock arm placing section of claim 23 to be adjacent, or side-by-side, to the exhaust pipe would further distinguish claim 23 from the arrangement disclosed by Ishii et al.

Claims 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ishii et al. in view of Tanabe et al. (U.S. 6,860,359).

Applicant respectfully traverses the rejection of claims 23 and 24.

Claim 23 has been amended to recite:

A motorcycle comprising:

a seat arranged above a rear wheel;

an exhaust system including a muffler and an exhaust pipe, the muffler arranged between the seat and the rear wheel; and

a lock arm placing section arranged to house a lock arm having left and right arm sections and a coupling section for theft prevention of the motorcycle; wherein

the lock arm placing section is arranged under the seat and in front of the muffler, and the lock arm placing section is arranged to house the lock arm in a position in which the lock arm is displaced to one side of a center line in a motorcycle width direction; and

the exhaust pipe is substantially parallel to and side-by-side with the lock arm placing section in the motorcycle width direction, and a section of the exhaust pipe where the exhaust pipe and the lock arm placing section are substantially parallel is bent to an opposite side of the center line than the lock arm placing section.
(emphasis added)

With the unique combination and arrangement of features recited in Applicant's claim 23, including the features of "an exhaust system including a muffler and an exhaust pipe, the muffler arranged between the seat and the rear wheel" and "the exhaust pipe is substantially parallel to and side-by-side with the lock arm placing section in the motorcycle width direction, and a section of the exhaust pipe where the exhaust pipe and the lock arm placing section are substantially parallel is bent to an opposite side of the center line than the lock arm placing section," Applicant has been able to arrange a lock arm and an exhaust pipe side-by-side below the seat such that the seat height is not increased so as to adversely affect the ability of a rider to comfortably place his or her feet on the pegs of the motorcycle and the thickness of the seat cushion is not decreased to deteriorate the seating comfort (see, for example, the paragraph [0026] of Applicant's specification).

The Examiner alleged that Ishii et al. teaches a lock arm placing section 163 provided under a seat 8, 9, 11 and arranged to house a lock arm 172 displaced to one side of a center line in a width direction of the motorcycle, wherein an exhaust pipe 149 is substantially parallel to the lock arm placing section 163 in a width direction of the motorcycle. The Examiner further alleged that Tanabe et al. teaches a muffler 55 arranged between a seat 52 and a rear wheel 57, and that it would have been obvious to provide the motorcycle of Ishii et al. with a muffler between the seat and the rear wheel in view of Tanabe et al. to prevent the rider from being burned by the hot muffler.

Applicant has amended claim 23 to recite the features of "the exhaust pipe is substantially parallel to and side-by-side with the lock arm placing section in the motorcycle width direction, and a section of the exhaust pipe where the exhaust pipe and the lock arm placing section are substantially parallel is bent to an opposite side of the center line than the lock arm placing section." Support for these features is found, for example, in paragraphs [0026], [0029], and [0078] of Applicant's specification and Fig. 5 of Applicant's drawings.

As discussed during the telephone interview on September 4, 2008, the exhaust pipe 149 of Ishii et al. is arranged far below the lock arm placing section 163 on the motorcycle and the muffler 131 is arranged to the side of the rear wheel 3 (see, for

example, Figs. 4, 5, and 24 of Ishii et al.). In fact, the recesses 171 that accommodate the lock arm 172 of Ishii et al. extend entirely across the width of the motorcycle such that the exhaust pipe 149 could not possibly be arranged beside the lock arm placing section 163 in the width direction of the motorcycle (see, for example, column 12, lines 19-24 and Figs. 29 and 30 of Ishii et al.).

In contrast to Ishii et al., Tanabe et al. teaches a muffler 55 directly below the seat 52, above the rear wheel 57, and along a center line in a width direction of the motorcycle.

If the motorcycle of Ishii et al. was modified to have a muffler between the seat and the rear wheel, as taught by Tanabe et al., one of ordinary skill in the art would arrange the lock arm placing section 163 above the muffler 131 because the lock arm placing section 163 of Ishii et al. extends entirely across the width of the motorcycle. That is, the muffler 131 would have to be arranged below the lock arm placing section 163 thus increasing the distance between the rear wheel 3 and the seat 8, 9, 11.

In fact, Tanabe et al. teaches this particular arrangement in Fig. 8. In Fig. 8 of Tanabe et al., the lock arm 69 is arranged below the seat 52 and above the muffler 55, which increases the height of the seat 52 above the rear wheel 57. Accordingly, if one of ordinary skill in the art was to combine the teachings of Ishii et al. and Tanabe et al., the only logical combination would be to locate the lock arm placing section 163 above the muffler 131 because 1) Ishii et al. teaches that the lock arm placing section 163 extends entirely across the width of the motorcycle, and 2) Tanabe et al. specifically teaches that the lock arm 69 should be located above the muffler 55 when the muffler is arranged between the seat and the rear wheel.

Neither Ishii et al. nor Tanabe et al. teach or suggest that a lock arm placing section should be displaced to one side of a center line in a width direction of the motorcycle, wherein an exhaust pipe is positioned on the other side of the center line and beside the lock arm placing section in a width direction of the vehicle. Such a modification would not have been obvious or desirable to one of ordinary skill in the art because a substantial amount of storage space in the lock arm placing section 163 (i.e., the recesses 171 in the container box) of Ishii et al. would be lost.

Thus, the combination of Ishii et al. and Tanabe et al. clearly fails to teach or suggest the features of "an exhaust system including a muffler and an exhaust pipe, the muffler arranged between the seat and the rear wheel" and "the exhaust pipe is substantially parallel to and side-by-side with the lock arm placing section in the motorcycle width direction, and a section of the exhaust pipe where the exhaust pipe and the lock arm placing section are substantially parallel is bent to an opposite side of the center line than the lock arm placing section," as recited in Applicant's claim 23.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Ishii et al. in view of Tanabe et al.

In view of the foregoing amendments and remarks, Applicant respectfully submits that claim 23 is allowable. Claim 24 depends upon claim 23, and is therefore allowable for at least the reasons that claim 23 is allowable. As indicated above, claims 14-22, 25, and 26 have been allowed by the Examiner.

In view of the foregoing amendments and remarks, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance are solicited.

The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1353.

Respectfully submitted,

Dated: September 24, 2008

/Stephen R. Funk #57,751/
Attorneys for Applicant

KEATING & BENNETT, LLP
1800 Alexander Bell Drive, Suite 200
Reston, VA 20191
Telephone: (571) 313-7440
Facsimile: (571) 313-7421

Joseph R. Keating
Registration No. 37,368

Stephen R. Funk
Registration No. 57,751